



Doc No 4168646 09/30/2005 12:00 PM
 Certified filed and or recorded on above date:
 Office of the Registrar of Titles
 Hennepin County, Minnesota
 Michael H. Cunniff, Registrar of Titles

Doc No 8664463 09/30/2005 10:58 AM
 Certified filed and or recorded on above date:
 Office of the County Recorder
 Hennepin County, Minnesota
 Michael H. Cunniff, County Recorder
 TransID 144174

TRANSFER EN
 HENNEPIN COUNTY TAXPAYEE

SEP 30 20

| New cert | Cert | TransID 145195 Deputy 25 | Fees |
|----------|---------|--------------------------|-------------------|
| | 1056892 | | \$1.50 AF |
| | 1067507 | | \$10.50 STATEFEE |
| | 850645 | | \$114.00 TDOC FEE |
| | 1164312 | | \$0.00 TSUR |
| | 1164489 | | \$126.00 Total |

STEWART TITLE-JW 104242

JOINT ACCESS EASEMENT AGREEMENT

This Joint Access Easement Agreement ("Agreement") is made this 28 day of SEPTEMBER, 2005, by and between Recreational Equipment, Inc., P.O. Box 1938, Sumner, Washington 98390, a Washington corporation (the "Grantor"), the City of Bloomington, 1800 West Old Shakopee Road, Bloomington, Minnesota, a Minnesota municipal corporation (the "Grantee"), and Christy L.C. Thiele, LLC, a Minnesota limited liability company ("Thiele").

RECITALS

(1) Grantor is the owner of certain parcels of real property located in the City of Bloomington, Hennepin County, State of Minnesota (the "Grantor Parcels"), and legally described in Exhibit A attached hereto.

(2) Grantee is the owner of certain parcels of real property located in the City of Bloomington, Hennepin County, State of Minnesota (the "Grantee Parcels"), legally described in Exhibit B attached hereto.

4168646

(3) Thiele is the owner of certain real property located in the City of Bloomington, Hennepin County, State of Minnesota (the "Thiele Parcels") and legally described in Exhibit C attached hereto. Grantor Parcels, Grantee Parcels, and Thiele Parcels may collectively be referred to herein as "Parcels".

(4) This Agreement is entered into by the parties in satisfaction of one of the terms of a separate land exchange agreement between Grantor and Grantee under which Grantor has agreed to provide non-exclusive pedestrian and vehicular access, over and across the Grantor Parcels, between adjacent American Boulevard and the Grantee Parcels, as well as between American Boulevard and Thiele Parcel.

(5) The area of the non-exclusive access easements to be provided with respect to the Grantee Parcels (the "Grantee Parcels Access Easement Area") is depicted on Exhibit D hereto and is described on Exhibit E hereto.

(6) The area of the non-exclusive access easement to be provided with respect to the Thiele Parcels (the "Thiele Parcels Access Easement Area") is depicted on Exhibit D hereto and is described on Exhibit F hereto.

(7) Grantor, Grantee, and Thiele desire to establish of record the access easements described herein.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the parties hereby agree to establish the following access easements pursuant to the terms and conditions set forth herein:

(1) GRANT OF ACCESS EASEMENTS

(a) Grantee Parcels Access Easement. Grantor hereby declares, creates, and grants a permanent easement over and across the Grantee Parcels Access

Easement Area for the non-exclusive use for pedestrian and vehicular ingress to and egress from the Grantee Parcels. This easement (the "Grantee Parcels Access Easement") shall burden the Grantee Parcels Access Easement Area for the benefit of the Grantee Parcels for access from and to the public street known as American Boulevard.

(b) Thiele Parcels Access Easement. Grantor also hereby declares, creates, and grants a permanent easement over and across the Thiele Parcels Access Easement Area for the non-exclusive use for pedestrian and vehicular ingress to and egress from the Thiele Parcels. This easement (the "Thiele Parcels Access Easement") shall burden the Thiele Parcels Access Easement Area for the benefit of the Thiele Parcels for access from and to the public street known as American Boulevard.

(c) Easements Non-Exclusive. The two access easements created herein (collectively referred to as the "Access Easements") are non-exclusive, and Grantor may also use the two access easement areas (collectively referred to as the "Access Easement Areas") for pedestrian and vehicular ingress to and egress from the Grantor Parcels.

(2) CONSTRUCTION OF DRIVEWAY AND CIRCULATION IMPROVEMENTS.

Grantee shall, at its cost, construct the new driveway and parking circulation improvements located within the Grantee Parcels Access Easement Area and shall also construct the necessary driveway entrance improvements at American Boulevard for the Thiele Parcels Access Easement Area. Such improvements shall be constructed in accordance with the terms of the parties' land exchange agreement and Grantee's street project plans.

(3) USE OF ACCESS EASEMENTS.

The Access Easements created herein shall be used solely for the purpose of ingress and egress by the Grantor, Grantee, and Thiele, and their respective employees, agents, contractors, customers, and invitees, for pedestrian and vehicular traffic to and from the Grantor Parcels, the Grantee Parcels, and the Thiele Parcels. The Access Easement Areas shall not be used for the parking of vehicles, nor shall any owner of these parcels cause or permit activities on their respective parcels or within the Access Easement Areas that would interfere with or obstruct the use of the easement areas for access purposes, and no improvements or structures shall be placed or installed within the Access Easement Areas which would obstruct or interfere with pedestrian or vehicular access in those areas.

(4) DRIVEWAY MAINTENANCE AND REPAIR.

(a) For purposes of this Agreement, "Driveway" shall mean the driveway surface and other circulation system improvements (i.e. sidewalk, curb, and gutter) lying within an Access Easement Area created herein, and "Driveway Maintenance" shall mean all repairs, resurfacing, cleaning, clearing, snow and ice removal, maintenance, replacements and reconstruction of the Driveway that are reasonably necessary to maintain the Driveway in a safe, useable, and commercially presentable condition.

(b) Grantor shall be responsible for performing all reasonable Driveway Maintenance (as defined above) occurring within the Grantee Parcels Access Easement Area and the Thiele Parcels Access Easement Area. The Grantee shall reimburse the Grantor for one-half of the reasonable out-of-pocket maintenance expenses

incurred and paid by the Grantor for such Driveway Maintenance occurring within the Grantee Parcels Access Easement Area, and Thiele shall reimburse the Grantor for one-half of the reasonable out-of-pocket maintenance expenses incurred and paid by the Grantor for such Driveway Maintenance occurring within the Thiele Parcels Access Easement Area. Such reimbursement shall be made in accordance with the provisions of this Paragraph 4.

(c) The responsibility of the Grantee (or Thiele, as applicable) for one-half of the Driveway Maintenance expenses shall commence after completion of the construction of the improvements by the Grantee.

(d) Grantor shall provide the Grantee (or Thiele, as applicable) with at least ten (10) days' prior written notice of any Driveway Maintenance that is estimated to cost in excess of One Thousand Dollars (\$1,000.00).

(e) Reimbursement of the Grantor by the Grantee (or by Thiele, as applicable) of its share of the costs of a Driveway Maintenance activity shall occur within thirty (30) days of receipt from Grantor of a bill for such expenses, unless the reasonableness of the Driveway Maintenance performed or the costs incurred for it is disputed. Said bill shall itemize the expenses and include reasonable supporting documentation.

(f) In the event that the reasonableness of the Driveway Maintenance performed or the costs incurred for it are disputed by the Grantee (or by Thiele, as applicable), such party shall notify the Grantor in writing of such dispute within twenty (20) days of receipt of the billing from the Grantor. If the parties are unable to resolve

the dispute, the dispute shall be resolved in accordance with the provisions of Paragraph 5, below.

(g) If Grantee (or Thiele, as applicable) reasonably believes that the Driveway is not being properly maintained, then Grantee (or Thiele) may notify Grantor of such failure specifying the deficiencies. Grantor shall, within thirty (30) days after receipt of such notice, either correct such deficiencies or advise Grantee (or Thiele) in writing why it is not willing to perform such maintenance work. If Grantor fails to do the maintenance work or respond within such thirty (30) day period, then Grantee (or Thiele) is authorized to have such work completed and Grantor shall reimburse Grantee (or Thiele) for one-half (1/2) of the reasonable out of pocket maintenance expenses incurred and paid, and shall pay the same within thirty (30) days of the receipt of a bill for such expenses from Grantee (or Thiele). Said bill shall itemize the expenses and include reasonable supporting documentation. If Grantor responds that Grantor is not willing to do such work and the parties cannot thereafter resolve the dispute, then the dispute shall be decided in accordance with paragraph 5 below.

(5) DISPUTE RESOLUTION.

Any claim, dispute or other matter in question arising out of or related to this Agreement which is not resolved through good faith negotiations shall be subject to binding arbitration. The arbitration shall be decided in accordance with the Arbitration Rules of the American Arbitration Association currently in effect. The demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association, within ninety (90) days after the claim, dispute or other matter in question has arisen. No arbitration arising out of or relating to this

Agreement shall include, by consolidation or joinder or any other manner, an additional person or entity not a party to this Agreement. The parties hereto shall have ten (10) days to select a mutually agreeable qualified arbitrator. If the parties fail to agree, each party shall select a qualified arbitrator and the selected arbitrators shall, within ten (10) days, select a third party qualified arbitrator to actually arbitrate the dispute. The arbitration shall be held in Bloomington, Minnesota, unless another location is mutually agreed upon. The foregoing agreement to arbitrate shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof. The award rendered by the arbitrator shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. The arbitrator shall award attorney's fees and costs to the prevailing party in the arbitration and shall have the authority to determine the prevailing party for purposes of an award of attorney's fees in arbitration. Except as set forth in the preceding sentence, the costs incurred in connection with such dispute resolution shall be shared equally by the owners of the Parcels.

(6) MISCELLANEOUS.

(a) RUNNING OF BENEFITS AND BURDENS. All provisions of this Agreement shall run with the land and shall inure to the benefit of and be binding upon the owners of the Grantor Parcels, Grantee Parcels, and Thiele Parcels and their respective successors and assigns, including any mortgagees or subsequent holders of mortgages. When this Agreement uses the terms "Grantor" or "Grantee" or "Thiele", it shall mean those parties, or their respective successors and assigns if they are no longer the owners of their respective parcels..

(b) AGREEMENT TO RE-EXECUTE. The Grantor Parcels and Grantee Parcels are to be replatted in the near future, and the parties therefore agree to re-execute and re-file this Agreement using the legal descriptions of the lots of the new plat when it has been filed.

(c) ENCUMBRANCES. Grantee (or Thiele, as applicable) shall not suffer or permit anything to be done that will cause the Grantor Parcel to become encumbered by any mechanics' lien or similar lien, charge or claim. If any mechanic's lien or similar charge or claim is filed against the Grantor Parcel due to a request by Grantee (or Thiele) for labor or materials, Grantee (or Thiele, as applicable) shall discharge the same of record by a release or bond within thirty (30) days after the filing of any notice of such lien, claim or other charge.

(d) ATTORNEYS' FEES. If any party hereto reasonably incurs costs in order to enforce any provision of this Agreement, the prevailing owner shall be reimbursed by the other for all reasonable costs so incurred, including reasonable attorneys' fees and costs.

(e) SEVERABILITY. If any provision of this Agreement is invalid or unenforceable, such provision shall be deemed to be modified to be within the limits of enforceability or validity, if feasible; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Agreement in all other respects shall remain valid and enforceable.

(f) CONTROLLING LAW. This Agreement shall be governed by and construed under the laws of the State of Minnesota.

**EXHIBIT A
TO
JOINT ACCESS EASEMENT AGREEMENT**

Legal Description of Grantor Parcels:

Parcel A

850645

All of Lot 1, Block 1, ZAYRES 1st ADDITION, except that part lying southerly and easterly of the following described line: Commencing at the most southerly corner of said Lot 1 adjoining Lyndale Avenue South as shown on said plat; thence N0°24'12"E, assumed bearing, along an east line of said Lot 1 a distance of 50.00 feet to the actual point of beginning; thence N89°57'39"W a distance of 406.98 feet; thence S0°06'24"W to a point in a south line of said Lot 1, and there terminating.

Parcel B

All of the following described property (hereinafter, such property is collectively referred to as "Property 1"):

1164312 R-1092538

The West 27 feet of that part of Lot 1, FERTILE ACRES, lying South of the North 150 feet thereof, and

That part of Lot 2, FERTILE ACRES, lying South of the North 150 feet thereof, and East of a line running from a point on the South line of said Lot distant 276.27 feet East of the Southwest corner thereof to a point on the North line of said Lot distant 275.84 feet East of the Northwest corner thereof;

Parcel C

That part of the following described property (hereinafter, such property is referred to as "Property 2"):

The West 55.0 feet of that part of Lot 2, FERTILE ACRES, which lies South of the North 150.0 feet thereof, and East of that part of said Lot 2 described as follows: Beginning at the Southwest corner of said Lot 2; thence East along the South line thereof a distance of 221.27 feet; thence North to a point on the North line thereof 220.84 feet East of the Northwest corner thereof; thence West along the North line of said Lot 2 to the Northwest corner thereof; thence South along the West line thereof to the point of beginning;

Lying easterly and southeasterly of the following described Line A: Beginning at the point of intersection of the north line of Property 2 with a line drawn parallel with and 65.00 feet west of the east line of Property 1; thence S0°06'24"W, assumed bearing, along said parallel line a distance of 144.71 feet; thence S45°06'21"W to the point of intersection with the south line of Property 2, and there terminating;

Parcel D

That part of the following described property (hereinafter, such property is referred to as "Property 3"):

The East 60 feet of the West 87 feet of Lot 1, FERTILE ACRES, lying South of the North 150 feet thereof;

Lying southwesterly of the following described Line B: Beginning at the northwest corner of Property 3; thence S0°06'24"W, assumed bearing, along the west line of Property 3 a distance of 138.76 feet; thence S25°32'04"E to the point of intersection with the south line of Property 3, and there terminating.

**EXHIBIT B
TO
JOINT ACCESS EASEMENT AGREEMENT**

Legal Description of Grantee Parcels:

Parcel A

That part of:

Lot 1, Block 1, ZAYRES 1ST ADDITION

Lying southerly and easterly of the following described line: Commencing at the most southerly corner of said Lot 1 adjoining Lyndale Avenue South as shown on said plat; thence N0°24'12"E, assumed bearing, along an east line of said Lot 1 a distance of 50.00 feet to the actual point of beginning; thence N89°57'39"W a distance of 406.98 feet; thence S0°06'24"W to a point in a south line of said Lot 1, and there terminating; and

Parcel B

Lot 1, except the West 237 feet thereof, FERTILE ACRES; and

Parcel C

The West 80 feet of that part of Lot 1, FERTILE ACRES, lying East of the West 117 feet thereof; and

Parcel D

The West 30 feet of that part of Lot 1, FERTILE ACRES, lying East of the West 87 feet thereof; and

Parcel E

1056872 → Lot 11, Block 1, RAUENHORST NO. 1; and

Parcel F

→ The South 15 feet of the West 30 feet of that part of Block 1, SOUTH BEND TERRACE, lying East of the East line of the West 87 feet of Lot 1, FERTILE ACRES, extended; and

Parcel G

All of the following described property (hereinafter such property is referred to as "Property 3"):

The East 60 feet of the West 87 feet of Lot 1, FERTILE ACRES, lying South of the North 150 feet thereof;

Except that portion of Property 3 lying southwesterly of the following described Line B: Beginning at the northwest corner of Property 3; thence S0°06'24"W, assumed bearing, along the west line of Property 3 a distance of 138.76 feet; thence S25°32'04"E to the point of intersection with the south line of Property 3, and there terminating.

EXHIBIT C
TO
JOINT ACCESS EASEMENT AGREEMENT

Legal Description of Thiele Parcels: *Blainington*

Lots 1 and 2, Block 1, VICTOR ADDITION

1067507

1156286

**EXHIBIT D
TO
JOINT ACCESS EASEMENT AGREEMENT**

Depictions of Grantee Parcels Access Easement and Other Parcels Access Easement

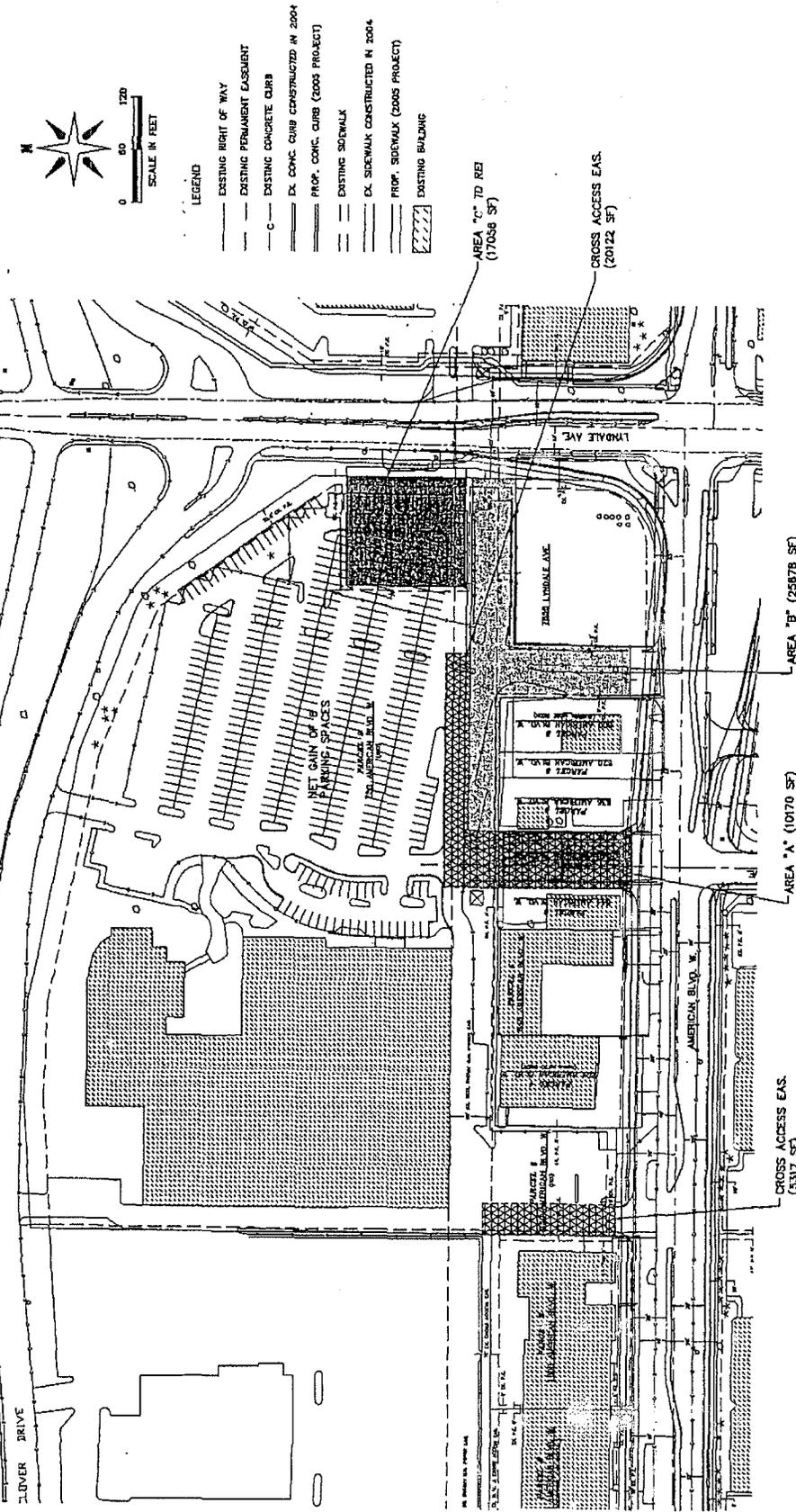
Exhibit D

**ATTACHMENT D
EXCHANGES AND CONSTRUCTION**

ENGINEERING DIVISION
PUBLIC WORKS DEPARTMENT
1998-302 ROW ACQUISITION PROJECT
Bloomington, Minnesota
CITY OF

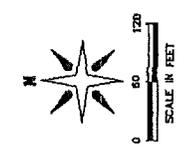
| REVISIONS | DATE | DESCRIPTION |
|-----------|------|-------------|
| | | |
| | | |
| | | |

| | |
|-------------|----------|
| ENGINEER | DATE |
| 3/7/05 | 3/7/05 |
| DATE | DATE |
| 3/03 | 3/03 |
| DRAWN | NO |
| CHECKED | SR |
| APPROVED | SR |
| PROJECT NO. | 1998-302 |
| SHEET: | 1 OF 1 |



AREAS TABULATION
 AREA "A" TO REI = 10170 SF
 AREA "C" TO REI = 17056 SF
 TOTAL AREA TO REI = 27226 SF
 AREA "B" TO CITY = 25878 SF
 TOTAL AREA TO CITY = 25878 SF
 TOTAL CROSS ACCESS EAS. = 25439 SF

**ATTACHMENT D
EXCHANGES AND CONSTRUCTION**



- LEGEND**
- EXISTING RIGHT OF WAY
 - EXISTING PERMANENT EASEMENT
 - EXISTING CONCRETE CURB
 - EX. CONC. CURB CONSTRUCTED IN 2004
 - PROP. CONC. CURB (2005 PROJECT)
 - EXISTING SIDEWALK
 - EX. SIDEWALK CONSTRUCTED IN 2004
 - PROP. SIDEWALK (2005 PROJECT)
 - EXISTING BUILDING

Drawing name: H:\PROJECTS\1998-302-ROW\1998-302-ROW.dwg — Plotfile: Job 14, 2005 - 3/27/05

EXHIBIT E
TO
JOINT ACCESS EASEMENT AGREEMENT

Legal Description of Grantee Parcels Access Easement

An easement for ingress and egress purposes over and across all of the following described properties:

All of the following described property (hereinafter, such property is collectively referred to as "Property 1"):

The West 27 feet of that part of Lot 1, FERTILE ACRES, lying South of the North 150 feet thereof, and

That part of Lot 2, FERTILE ACRES, lying South of the North 150 feet thereof, and East of a line running from a point on the South line of said Lot 276.27 feet East of the Southwest corner thereof to a point on the North line of said Lot, 275.84 feet East of the Northwest corner thereof;

and

That part of the following described property (hereinafter, such property is referred to as "Property 2"):

The West 55.0 feet of that part of Lot 2, FERTILE ACRES, which lies South of the North 150.0 feet thereof, and East of that part of said Lot 2 described as follows: Beginning at the Southwest corner of said Lot 2; thence East along the South line thereof a distance of 221.27 feet; thence North to a point on the North line thereof 220.84 feet East of the Northwest corner thereof; thence West along the North line of said Lot 2 to the Northwest corner thereof; thence South along the West line thereof to the point of beginning;

Lying easterly and southeasterly of the following described Line A: Beginning at the point of intersection of the north line of Property 2 with a line drawn parallel with and 65.00 feet west of the east line of Property 1; thence S0°06'24"W, assumed bearing, along said parallel line a distance of 144.71 feet; thence S45°06'21"W to the point of intersection with the south line of Property 2, and there terminating;

and

That part of the following described property (hereinafter, such property is referred to as "Property 3"):

The East 60 feet of the West 87 feet of Lot 1, FERTILE ACRES, lying South of the North 150 feet thereof;

Lying southwesterly of the following described Line B: Beginning at the northwest corner of Property 3; thence S0°06'24"W, assumed bearing, along the west line of Property 3 a distance of 138.76 feet; thence S25°32'04"E to the point of intersection with the south line of Property 3, and there terminating;

and

That part of:

Lot 1, Block 1, ZAYRES 1ST ADDITION

Commencing at the most southerly corner of said Lot 1 adjoining Lyndale Avenue South as shown on said plat; thence N0°24'12"E, assumed bearing, along an east line of said Lot 1 a distance of 50.00 feet; thence N89°57'39"W a distance of 196.98 feet to the actual point of beginning; thence N0°06'24"E a distance of 29.00 feet; thence N89°57'39"W a distance of 265.00 feet; thence S0°06'24"W a distance of 64.00 feet, more or less, to a point in a south line of said Lot 1; thence S89°57'39"E a distance of 65.00 feet; thence N0°06'24"E a distance of 35.00 feet; thence S89°57'39"E a distance of 200.00 feet, more or less, to the actual point of beginning.

Said easement shall be appurtenant to and for the benefit of the following described properties:

1. That part of:

Lot 1, Block 1, ZAYRES 1ST ADDITION

Lying southerly and easterly of the following described line: Commencing at the most southerly corner of said Lot 1 adjoining Lyndale Avenue South as shown on said plat; thence $N0^{\circ}24'12''E$, assumed bearing, along an east line of said Lot 1 a distance of 50.00 feet to the actual point of beginning; thence $N89^{\circ}57'39''W$ a distance of 406.98 feet; thence $S0^{\circ}06'24''W$ to a point in a south line of said Lot 1, and there terminating; and

2. Lot 1, except the West 237 feet thereof, FERTILE ACRES; and
3. The West 60 feet of that part of Lot 1, FERTILE ACRES, lying East of the West 117 feet thereof; and
4. The West 30 feet of that part of Lot 1, FERTILE ACRES, lying East of the West 87 feet thereof; and
5. Lot 11, Block 1, RAUENHORST NO. 1; and
6. The South 15 feet of the West 30 feet of that part of Block 1, SOUTH BEND TERRACE, lying East of the East line of the West 87 feet of Lot 1, FERTILE ACRES, extended; and
7. Property 3, except that part lying southwesterly of the above described Line B.

EXHIBIT F
TO
JOINT ACCESS EASEMENT AGREEMENT

Legal Description of These Parcels Access Easement

An easement for ingress and egress purposes over and across that part of Lot 1, Block 1, ZAYRES 1ST ADDITION lying southerly of the easterly extension of the northerly line of the southerly 10.00 feet of FORD LEASING DEVELOPMENT COMPANY ADDITION and northerly of the most southerly 20.00 feet of the Westerly 35.00 feet of said Lot 1 and westerly of the northerly extension of the east line of said westerly 35.00 feet. Said easement shall be appurtenant to and for the benefit of Lots 1 and 2, Block 1, VICTOR ADDITION.

COUNTY RECORDER 2-8-2005
STATE OF MINNESOTA COUNTY OF HENNEPIN
Certified to be a true and correct copy of the
original on file and of record in my office
MICHAEL H. CONRIFF, COUNTY RECORDER
By Michael H. Conriff Deputy